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EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/815,640	Applicant(s) NIHAL, PERWAIZ	
	Examiner James Sheleheda	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 14 and 39 are objected to because of the following informalities:

In claim 14, line 2, "and an electrical" should be changed to --an electrical--.

In claim 39, line 2, "distributor define feed" should be changed to --distributor defined feed--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-9m 11-29 and 35-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Cook et al. (Cook) (6,338,044).

As to claim 1, Cook discloses a method of transferring information (column 2, lines 61-67) to a remote apparatus (Fig. 1; consumer's pc, 86) having a storage device (digital library, 120; column 3, lines 15-18), comprising:

(a) linking (see Fig. 1) the remote apparatus (Fig. 1; consumer's pc, 86) to a database (Fig. 1; central computer, 46; column 3, lines 49-53) containing user selectable information (digital programming in master digital library, 2; column 3, lines 7-13) and provider defined information (ads in advertising database, 4; column 4, lines 13-15);

(b) selecting (scheduling ads; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) at least a portion of the provider defined information (inserted ads; column 4, lines 16-27) to the remote apparatus (computer, 86; column 4, lines 52-56); and

(c) selecting (scheduling programming tracks; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) at least a portion of the user selectable information (required tracks; column 4, lines 16-27) to the remote apparatus (computer, 86; column 4, lines 52-56).

As to claim 2, while Cook discloses linking (via the Internet; column 4, lines 52-56), he fails to specifically disclose wherein the linking is performed using a cable or telephone line.

The examiner takes official notice that it was notoriously well known in the art for a consumer to access the Internet through cable and modems, which link to external networks through cable and telephone lines, for the typical benefit of allowing a user to access the Internet through well known established infrastructures such as cable and telephone lines.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Cook's system to include wherein the linking is performed using a cable or telephone line for the typical benefit of allowing a user to utilize well known established infrastructures, such as cable and telephone lines, to access external computer resources.

As to claim 3, Cook discloses wherein the linking is performed using wireless (linking is performed using satellite; column 6, lines 40-45).

As to claim 4, while Cook discloses wherein a device provider's database will select a series of provider defined information transmitted to the apparatus (through user interaction or known rules; column 5, lines 47-57), he fails to specifically disclose wherein the selection is performed randomly.

The examiner takes official notice that it is notoriously well known in the art to make selections between a series of items randomly, such as when a multitude of equally valid items are available, for the typical benefit of easily selecting one of plural ads which are valid for a viewer.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Cook's system to include wherein the selection is performed randomly for the typical benefit of easily selecting one of plural ads which are valid for a viewer.

As to claim 5, Cook discloses wherein a device (scheduler, 130) systematically selects a series of information transmitted to the apparatus (uses rules to select tracks and ads to be transmitted; column 5, lines 39-57).

As to claim 6, Cook discloses wherein the user randomly selects a series of times transmitted to the apparatus (wherein user selections are randomly based upon a users preferences at a given time; column 5, lines 58-61).

As to claim 7, Cook discloses wherein the user systematically selects a series of items transmitted to the apparatus (wherein the consumer utilizes a scheduler to create the schedule; column 5, lines 58-67).

As to claim 8, while Cook discloses wherein a device linked to the apparatus will select a series of provider defined information transmitted to the apparatus (wherein scheduler, 130 selects ads for a user; column 5, lines 58-67), he fails to specifically disclose wherein the selection is performed randomly.

The examiner takes official notice that it is notoriously well known in the art to make selections between a series of items randomly, such as when a multitude of equally valid items are available, for the typical benefit of easily selecting one of plural ads which are valid for a viewer.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Cook's system to include wherein the selection is

performed randomly for the typical benefit of easily selecting one of plural ads which are valid for a viewer.

As to claim 9, Cook discloses wherein a device linked to the apparatus (scheduler, 130) systematically selects a series of items transmitted to the apparatus (wherein the consumer must utilize scheduler, 130 to select and create a schedule of items; column 5, lines 58-67).

As to claim 11, Cook discloses wherein a device (running advertiser, 200; column 6, lines 1-4 and lines 17-23) tracks the usage of information on the apparatus (running of the downloaded ads; column 6, lines 17-23).

As to claim 12, Cook discloses wherein the information is transferred in an encrypted manner (column 5, lines 3-15).

As to claim 13, Cook discloses wherein the apparatus has at least one auxiliary output (audio speakers, 122; column 5, lines 12-15).

As to claim 14, Cook discloses wherein the auxiliary output is an electrical device (wherein audio speakers are electrical; column 5, lines 12-15) and an electro-mechanical device (wherein an audio speaker is an electro-mechanical transducer; column 5, lines 12-15).

As to claim 15, Cook discloses wherein the transferred information (column 3, lines 15 and lines 29-33) includes at least one of audio (column 3, lines 29-32), video (column 3, lines 29-32), visual format (movies and photos; column 3, lines 29-32) and data (column 3, lines 29-32).

As to claim 16, Cook discloses the step of executing the step of executing a media segment a predetermined number of times (wherein each segment is played once according to the schedule; Fig. 3; column 5, lines 15).

As to claim 17, Cook discloses the step of executing the step of executing a plurality of media segments for a predetermined time period (playing a schedule of media tracks; Fig. 3; column 5, lines 15).

As to claim 18, Cook discloses the step of recharging the storage device during active mode (updating previously stored schedules, ads and tracks before playback; column 4, lines 44-65).

As to claim 19, Cook discloses wherein a portion of the transferred segment is played at least once (wherein each segment is played once according to the schedule; Fig. 3; column 5, lines 15).

As to claim 20, Cook discloses wherein a portion of the transferred segment is played at least once (wherein each segment is played once according to the schedule; Fig. 3; column 5, lines 15), and any subsequent playing is at a user's request (wherein a user chooses to repeat a track; column 5, lines 15-16).

As to claim 21, Cook discloses wherein at least one segment is played at least once (wherein each segment is played once according to the schedule; Fig. 3; column 5, lines 15).

As to claim 22, Cook discloses wherein at least one segment is played at least once (wherein each segment is played once according to the schedule; Fig. 3; column 5, lines 15), and any subsequent playing is at a user's request (wherein a user chooses to repeat a track; column 5, lines 15-16).

As to claim 23, Cook discloses wherein the user selectable information is selected from a group consisting of music clips (digital music files; column 3, lines 29-32), video clips (digital movies; column 3, lines 29-32), audio clips (digital music files; column 3, lines 29-32), songs (digital music files; column 3, lines 29-32), musical compositions (digital music files; column 3, lines 29-32) and movies (digital movies; column 3, lines 29-32).

As to claim 24, Cook discloses wherein provider defined information is of local concern (ads for a particular consumer; column 5, lines 47-51).

As to claim 25, Cook discloses wherein the provider defined information is an audio ad (digital ads played over an audio speaker; column 5, lines 3-15).

As to claim 26, Cook discloses wherein during a recharging process (updating previously stored schedules, ads and tracks before playback; column 4, lines 44-65) information from said apparatus is transferred to the data base (the distributor receiving and reading schedule information from the user computer; column 4, lines 47-52).

As to claim 27, Cook discloses wherein compensation for an individual (new updated media tracks; column 4, lines 47-56) is directly related to the information transferred (based upon the schedule information in the user computer; column 4, lines 47-56).

As to claim 28, Cook discloses wherein the transferred information (current user schedule; column 4, lines 44-56) includes a user preference (wherein the schedule is user created based upon user preference; column 5, lines 57-67).

As to claim 29, Cook discloses a program storage device readable by a machine (host computer, 46), tangibly embodying a program of instructions executable by the

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machine (distributor software, 78; column 4, lines 28-46) to perform method steps for transferring information (column 2, lines 61-67) to a remote apparatus (Fig. 1; consumer's pc, 86) having a storage device (digital library, 120; column 3, lines 15-18), comprising:

(a) linking (see Fig. 1) the remote apparatus (Fig. 1; consumer's pc, 86) to a database (Fig. 1; central computer, 46; column 3, lines 49-53) containing user selectable information (digital programming in master digital library, 2; column 3, lines 7-13) and provider defined information (ads in advertising database, 4; column 4, lines 13-15);

(b) selecting (scheduling ads; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) at least a portion of the provider defined information (inserted ads; column 4, lines 16-27) to the remote apparatus (computer, 86; column 4, lines 52-56); and

(c) selecting (scheduling programming tracks; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) at least a portion of the user selectable information (required tracks; column 4, lines 16-27) to the remote apparatus (computer, 86; column 4, lines 52-56).

As to claim 35, Cook discloses a system for transferring media segments (column 2, lines 61-67) to a web client computer (Fig. 1; consumer's pc, 86) from a web network computer (central host computer, 46), comprising:

(a) at least one data base at the web network computer (master digital library, 2) containing media segment information (column 4, lines 1-15) accessible from at least one network (accessible over the Internet to a consumer; column 4, lines 52-46);

(b) means for determining from the web network computer data base the media segment information (determining the tracks needed to be distributed; column 4, lines 28-46; and

(c) means for transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) into the web client computer (computer, 86; column 4, lines 52-56) at least a portion of the media segment from the web network computer (required tracks; column 4, lines 16-27).

As to claim 36, Cook discloses an apparatus for transferring information to at least one user (column 2, lines 61-67), comprising:

(a) a central system (central host computer, 46) having user selectable information (digital programming in master digital library, 2; column 3, lines 7-13) and provider defined information (ads in advertising database, 4; column 4, lines 13-15);

(b) a remote apparatus (Fig. 1; consumer's pc, 86) having a storage device (digital library, 120; column 3, lines 15-18);

(c) means for linking (see Fig. 1) the remote apparatus (Fig. 1; consumer's pc, 86) to the central system (Fig. 1; central computer, 46; column 3, lines 49-53); and

(d) means for transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) the provider defined information (inserted ads; column 4, lines 16-27) to

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the remote apparatus (computer, 86; column 4, lines 52-56) and for transferring the user selectable information (required tracks; column 4, lines 16-27) to the remote apparatus (computer, 86; column 4, lines 52-56).

As to claim 37, Cook discloses a system for transferring media segments (column 2, lines 61-67) to a portable device (Fig. 1; consumer's pc, 86; column 6, lines 40-50) from at least one web network system (central host computer, 46), comprising:

(a) at least one data base on the web network system (master digital library, 2) containing at least one media segment (column 4, lines 1-15) accessible from at least one network (accessible over the Internet to a consumer; column 4, lines 52-46);

(b) means for determining from the database on the web network system information on the media segment (determining the tracks needed to be distributed; column 4, lines 28-46; and

(c) means for transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) to the portable device (computer, 86; column 4, lines 52-56) at least a portion of the media segment from the web network system (required tracks; column 4, lines 16-27).

As to claim 38, Cook discloses a system for transferring media segments (column 2, lines 61-67) to a portable device (Fig. 1; consumer's pc, 86; column 6, lines 40-50) from at least one web network system (central host computer, 46), comprising:

(a) at least one data base on the web network system (master digital library, 2) containing at least one media segment (column 4, lines 1-15) accessible from at least one network (accessible over the Internet to a consumer; column 4, lines 52-46);

(b) means for determining from the database on the web network system information on the media segment (determining the tracks needed to be distributed; column 4, lines 28-46; and

(c) means for transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) to the portable device (computer, 86; column 4, lines 52-56) at least a portion of the media segment from the web network system (required tracks; column 4, lines 16-27) via at least one distributor network (distributing via the Internet; column 4, lines 52-56).

As to claim 39, Cook discloses wherein the at least one distributor network (the Internet) defines at least one distributor defined feed (wherein the distributor defined the feed of programming being fed across the network; column 4, lines 52-56).

As to claim 40, Cook discloses a method for transferring information (column 2, lines 61-67) to a remote portable device (Fig. 1; consumer's pc, 86; column 6, lines 40-50), comprising:

(a) linking (see Fig. 1) the remote portable device (Fig. 1; consumer's pc, 86) to a database (Fig. 1; central computer, 46; column 3, lines 49-53) containing user selectable information (digital programming in master digital library, 2; column 3, lines 7-

13) and provider defined information (ads in advertising database, 4; column 4, lines 13-15) via at least one distributor network (via the Internet; column 4, lines 52-56).

(b) selecting (scheduling ads; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) the provider defined information (inserted ads; column 4, lines 16-27) to the remote portable device (computer, 86; column 4, lines 52-56); and

(c) selecting (scheduling programming tracks; column 4, lines 16-27 and 39-46) and transferring (if the user's computer needs a copy of an ad; column 4, lines 47-56) the user selectable information (required tracks; column 4, lines 16-27) to the remote portable device (computer, 86; column 4, lines 52-56).

4. Claims 30-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Jaisimha et al. (Jaisimha) (6,487,663).

As to claim 30, Jaisimha discloses a system for providing access to media segment information (Fig. 5; column 8, lines 15-28) on a computer (computer running the web browser; column 8, lines 28-36) with a web browser (Fig. 5, browser, 504; column 8, lines 28-36) from a data storage system (media storage system, 508; column 8, lines 24-27) accessible by a web server (web server, 306; 19-27), the system comprising:

a program (media player) for making available the information from the data storage system (for presenting the transmitted media; column 10, lines 26-34); and

a file system attachment in a URL (URL for a media object in a hyperlink; column 10, lines 13-23) including the name of a desired file system (foo.ram; column 10, lines 13-23), a location of the desired file system (identifying where the web server can find the requested file; Fig. 6, steps 606 and 608; column 10, lines 6-23), and an identification of the program for making available the desired file system (Fig. 6, step 610; identifying the media player required to play the file; column 10, lines 24-34);

wherein a data base containing the desired file system (Fig. 5; media storage system, 508, containing file, 318) is directly contacted utilizing the program (media player, 506 requesting the file; column 12, lines 62-67 and column 13, lines 1-4) and the name and the location of the desired file system to locate the desired file system containing the media segment information (wherein the requested media file is identified through the name and location URL; column 10, lines 4-9 and lines 19-23).

As to claim 31, Jaisimha discloses wherein the program is resident on a client computer system (wherein the media player is a plugin at the computer browser; column 10, lines 26-34).

As to claim 32, Jaisimha discloses wherein the program is resident on the web server (wherein web browser plugins are stored at web servers and downloaded and "plugged in" to a users home browser; column 10, lines 24-34).

As to claim 33, while Jaisimha discloses wherein the file system attachment includes a user identification (user=RacerX; column 6, lines 44-53), he fails to specifically disclose the user identification being adapted to control access to the desired file system.

The examiner takes official notice that it is notoriously well known in the art to utilize user identification information, such as through a user login, to control access to desired information for the typical benefit of allowing information providers to ensure that only appropriate users are able to access their information.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Jaisimha's system to include wherein user identification is adapted to control access to the desired file system for the typical benefit of allowing information providers to limit access to information to appropriate users.

As to claim 34, Jaisimha discloses wherein the URL is provided in a web page accessible through the web server (column 10, lines 44-53).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook as applied to claim 1 above, and further in view of Ireton (US2002/0077984A1).

As to claim 10, while Cook discloses transmitting information to a remote apparatus, he fails to specifically disclose wherein the user duplicates information from the remote apparatus into a further remote apparatus.

In an analogous art, Ireton discloses a system (Fig. 1) wherein a user will download information into a remote apparatus (downloading music from the Internet to computer 115a; paragraph 38, lines 1-5) and wherein the user will duplicate and transfer the information into a further remote apparatus (user providing the downloaded music to server, 110a in a car; paragraph 38, lines 5-7) for the typical benefit of allowing a user to access the information at another location (paragraph 38, lines 3-7 and paragraph 39, lines 11-20).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sawyer (6,084,628) which teaches displaying advertisements based upon random selections.

Conclusion

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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9. Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
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JS



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